

**Summary of Proposed Revisions to
Texas Emissions Reduction Plan
Guidelines for Emissions Reduction Incentive Grants (RG-388)
and
Guidelines for the Drayage Truck Incentive Program (RG-524)
March 3, 2016**

The Texas Commission on Environmental Quality (TCEQ or commission) proposes revisions to *Texas Emissions Reduction Plan: Guidelines for Emissions Reduction Incentive Grants (RG-388)* and *Texas Emissions Reduction Plan: Guidelines for the Drayage Truck Incentive Program (RG-524)*. The revisions to the Drayage Truck Incentive Program (DTIP) guidelines are proposed to make the DTIP guidelines consistent with changes being proposed to the program rules under 30 Texas Administrative Code (TAC) Chapter 114, Subchapter K, Division 8. Several additional revisions are proposed to both guideline documents that are not included as part of the proposed rule changes.

The proposed guideline revisions are being released for public comment at the same time as the proposed rulemaking. It should be noted, however, that the rulemaking takes precedence over the guidelines, so any changes to the proposed rule revisions may also result in changes to these proposed revisions to the guidelines. It is recommended that anyone reviewing these proposed guideline revisions also review the proposed rule revisions (Rule Project Number: 2016-004-114-AI) and make comments on both documents.

Proposed Changes to *Texas Emissions Reduction Plan: Guidelines for Emissions Reduction Incentive Grants (RG-388)*

The Texas Emissions Reduction Plan (TERP) was established in Texas Health and Safety Code (THSC), Chapter 386, to provide grant funding for projects that reduce nitrogen oxides (NO_x) emissions and other pollutants. The Diesel Emissions Reduction Incentive (DERI) Program was established under THSC, Chapter 386, Subchapter C, to provide grants for replacement or upgrade of heavy-duty on-road vehicles, heavy-duty non-road equipment, locomotives, marine vessels, and stationary equipment in order to reduce NO_x emissions in the state's nonattainment areas and other affected counties.

Under THSC, §386.053(d), the commission may propose revisions to the guidelines and criteria adopted consistent with the requirements of THSC, Chapter 386, as necessary to improve the ability of the TERP to achieve its goals. The commission proposes to revise the DERI Program guidelines to remove the provision that the executive director may allow an engine replaced under the DERI Program to be sent to a remanufacturing facility instead of being destroyed.

The proposed revisions to remove the executive director's authorization to allow an engine replaced under the DERI Program to be sent to a remanufacturing facility in lieu of destruction is intended to ensure that an engine replaced under the program is permanently removed from the emissions inventory. This provision was intended to

allow engine cores that were replaced under the DERI Program to be used in a remanufacturing process by the original engine manufacturer. However, the commission has determined that making the engine cores available may increase the availability of remanufactured engines for use in older, higher-emitting vehicles and equipment. The purpose of the DERI Program is to encourage the replacement or upgrade of older vehicles and equipment, rather than continued operation of the vehicles or equipment. The proposed change would help ensure that the program does not inadvertently help facilitate the continued use of older vehicles and equipment.

The sections being revised are listed below.

Chapter 4, Emissions Reduction Incentive Grants Program, Verification of Vehicle, Equipment, and Engine Disposition, page 17

Chapter 5, Rebate Grants Program, Verification of Vehicle, Equipment, and Engine Disposition, pages 23-24

Chapter 6, Small-Business Grants Program, Verification of Vehicle, Equipment, and Engine Disposition, page 29

Chapter 7, Third-Party Grants Program, Verification of Vehicle, Equipment, and Engine Disposition, page 35

The commission proposes to remove the provisions in Chapters 4 through 7 authorizing the executive director to allow an engine replaced under the grant programs to be sent to a remanufacture facility operated or authorized by the original engine manufacturer in lieu of crushing the engine block or cutting a hole in it. The proposed change would help ensure that the program does not inadvertently help facilitate the continued use of older vehicles and equipment.

Proposed Changes to Texas Emissions Reduction Plan: Guidelines for the Drayage Truck Incentive Program (RG-524)

In addition to the provisions of THSC, §386.053(d), THSC, §386.183(f), also authorizes the commission to modify the DTIP to improve its effectiveness or further the goals of the TERP. The proposed revisions to the DTIP criteria are intended to improve the effectiveness of the DTIP to reduce emissions at and near seaports and rail yards in the state's nonattainment areas.

The proposed revisions would include non-road cargo handling equipment as eligible for replacement under the program and would remove the requirement that the drayage truck being purchased must have a day cab only. In addition, the definition of "seaport" would be amended to include publically or privately owned property within a ship channel security district established under Texas Water Code, Chapter 68. These changes would make the guidelines consistent with the proposed changes to the DTIP rules.

The commission also proposes to remove the requirement that a non-road yard truck eligible for replacement and purchase under the DTIP have an engine rated at greater than 125 horsepower. This requirement was included in the guidelines to ensure that only non-road yard trucks of a size generally equivalent to an on-road heavy-duty vehicle would be eligible for replacement and purchase. However, with the proposed change to include other cargo handling equipment, the commission proposes to remove

the limit on minimum horsepower to allow lower horsepower cargo handling equipment that may be considered a yard truck to be eligible.

Finally, the commission proposes to remove the executive director's authorization to allow an engine replaced under the DTIP to be sent to a remanufacturing facility in lieu of destruction. This provision was intended to allow on a limited basis engine cores that were replaced under the DTIP to be used in a remanufacturing process by the original engine manufacturer. However, the commission has determined that making the engine cores available may increase the availability of remanufactured engines for use in older vehicles and equipment. The purpose of the DTIP program is to encourage the replacement or upgrade of older drayage trucks, rather than continued operation of the vehicles. The proposed change would help ensure that the program does not inadvertently help facilitate the continued use of older vehicles.

The sections being revised are listed below.

Chapter 2, Glossary, pages 5 and 6

The commission proposes to remove the definition of "day cab" under the DTIP and to add a definition of "cargo handling equipment." The removal of the definition for a day cab is proposed because, with the proposed change to remove the requirement that a new drayage truck purchased under the DTIP have a day cab only, the definition would no longer be needed.

The proposed definition of cargo handling equipment would be added in conjunction with the proposed addition of cargo handling equipment as eligible for replacement and purchase under the DTIP. The proposed definition of cargo handling equipment includes any heavy-duty non-road, self-propelled vehicle or equipment used at a seaport or rail yard to lift or move cargo, such as containerized, bulk, or break-bulk goods. The equipment includes, but is not limited to rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, and aerial lifts.

The commission also proposes to amend the definition of "seaport" to include publically or privately owned property within a ship channel security district established under Texas Water Code, Chapter 68. Only one ship channel security district has been formed in Texas, the Houston Ship Channel Security District. In the Port of Houston area there are multiple businesses and facilities with substantial drayage truck activity located in proximity to, but separate from, the cargo transfer locations. The proposed revision to the definition of a seaport would allow for the replacement of drayage trucks that operate in this broader area.

Chapter 3, Eligible Seaports and Rail Yards, page 7

The commission proposes to add language corresponding to the revised definition of a seaport, to state that eligible seaports also include facilities that are included in a ship channel security district established under Texas Water Code, Chapter 68.

Chapter 4, Eligibility Criteria, pages 11 – 13

The commission proposes to remove the requirement that a heavy-duty on-road vehicle eligible for purchase under the DTIP have a day cab only. Based on visits to many of the rail and port facilities and discussion with port administrators and drayage truck owners, the commission has determined that the goals of the DTIP could be better accomplished by allowing on-road heavy-duty vehicles with sleeper cabs to be eligible for purchase under the program. The commission has determined that a number of the drayage truck owners are individual truck owners who contract to provide drayage services and that use vehicles with sleeper berths. The commission proposes to remove the day cab requirement in order to improve the ability of the DTIP to achieve its goals and the goals of the TERP. The proposed change is consistent with the proposed change to the rules.

The commission also proposes to add “other cargo handling equipment” to the list of drayage truck models eligible for replacement and purchase under the DTIP. This change would expand the program to include replacement and purchase of heavy-duty non-road, self-propelled vehicles or equipment used at a seaport or rail yard to lift or move cargo, such as containerized, bulk, or break-bulk goods. As noted under the proposed definition in Chapter 2, Glossary, this equipment would include, but would not be limited to, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, and aerial lifts. The commission has determined that expanding the program to include other cargo handling equipment at seaports and rail yards would help achieve the goals of the DTIP and the TERP by further reducing the concentrated emissions associated with the movement of cargo at those facilities. The proposed change is consistent with the proposed change to the rules.

In addition, the commission proposes to remove the requirement that a non-road yard truck eligible for replacement and purchase under the DTIP have an engine rated at greater than 125 horsepower. This requirement was included in the guidelines to ensure that only non-road yard trucks of a size generally equivalent to an on-road heavy-duty vehicle would be eligible for replacement and purchase. However, with the proposed change to include other cargo handling equipment, the commission proposes to remove the limit on minimum horsepower to allow lower horsepower cargo handling equipment that may be considered a yard truck to be eligible.

Chapter 5, Program Procedures, Verification of Vehicle, Equipment, and Engine Disposition, page 19

The commission proposes to remove the provision in Chapter 5 authorizing the executive director to allow an engine replaced under the DTIP to be sent to a remanufacture facility operated or authorized by the original engine manufacturer in lieu of crushing the engine block or cutting a hole in it. The proposed change would help ensure that the program does not inadvertently help facilitate the continued use of older vehicles.

Public Comments and Public Hearings

The commission anticipates releasing the proposed guideline revisions in conjunction with proposed revisions to the DTIP rules under 30 Texas Administrative Code Chapter 114, Subchapter K, Division 8.

The commission will hold public hearings on the proposed rulemaking and the proposed revisions to the guidelines in Austin on April 12, 2016 at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle, and in Houston on April 14, 2016 at 6:00 p.m. in Conference Room B, at the Houston-Galveston Area Council located at 355 Timmons, Suite 120. The hearings will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposals 30 minutes prior to the hearing. Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

Written comments on the proposed rulemaking may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www1.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. Comments on the proposed rulemaking should reference Rule Project Number 2016-004-114-AI.

Comments on the guideline revisions may be included with comments on the proposed rulemaking or may be submitted separately. Separate electronic comments pertaining solely to the guideline revisions should reference Non-Rule Project Number 2016-011-OTH-NR and may be submitted at: <http://www1.tceq.texas.gov/rules/ecomments/>. Separate written comments pertaining solely to the guideline revisions may be submitted to Steve Dayton, MC 204, Implementation Grants Section, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-6161.

The comment period closes on April 18, 2016. Copies of the proposed rulemaking can be obtained from the commission's website at http://www.tceq.texas.gov/nav/rules/propose_adopt.html. Copies of the proposed revisions to the guidelines can be obtained from the commission's TERP program website at <http://www.terpgrants.org>. For further information, please contact Steve Dayton of the Implementation Grants Section at (512) 239-6824.